

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Revision No. 14 of 2003

Agarwal Auto Traders & another

.....Revisionist

Versus

Life Insurance Company

.....Respondents

Mr. Sarvesh Aggarwal, Advocate for the revisionists.
Mr. M.C. Kandpal, Sr. Advocate assisted by
Mr. Kurban Ali, Advocate for the respondent.

Hon'ble Prafulla C. Pant, J.

Heard learned counsel for the revisionists and learned counsel for the respondent.

2) This revision is directed against the order dated 13.12.2002, passed by learned Addl. District Judge / III F.T.C., Udham Singh Nagar, whereby issue No. 4 relating to valuation of court fee has been decided in Civil Suit No. 154 of 1999.

3) By the impugned order, it has been found by the trial court that in the form of mandatory injunction, the plaintiff has sought relief of recovery of Rs. 6,76,800/-. A suit for mandatory injunction for recovery of money is not maintainable, unless the advalorem court fee is paid on the amount sought to be recovered from the defendant. As such, the trial court has committed no error of law in passing the impugned order, whereby the issue No. 4 has been decided in favour of the defendant and the plaintiffs were directed to pay the court fee ad-valorem on Rs. 6,76,800/-. Otherwise also,

learned counsel for the defendant (present respondent) states that the suit No. 154 for 1999 has already been decided and this revision ash become infructuous.

4) Accordingly, for the reasons as discussed above, this revision is dismissed in limine.

(Prafulla C Pant, J.)

Dt. 18.04.2006.

H.Negi